

Patent US 210D1  
Edwards Ref: RMI-5707 CIP4CON5DIV  
(formerly 269/089)

### REMARKS

Reconsideration of the rejections set forth in the Final Office Action mailed March 8, 2005, is respectfully requested. Claims 1 and 14 have been amended. Support for these amendments can be found in the specification at, e.g., page 19, line 11 – page 20, line 8 and page 23, lines 3-20. Therefore, these amendments have been made without the addition of new matter. Claims 1-22 remain pending in this case.

#### Art Rejections

Claims 1-22 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Middleman et al. (U.S. Patent No. 5,720,754).

Applicants assert that Middleman et al. does not teach or suggest a filter having “*a pore size of 50 to 300 microns and is adapted to allow a blood flow rate of 3L/min or more through the filter*” as required by amended claims 1 and 14. The device described in Middleman et al. is used to collect or retrieve tissue samples. (Col. 29, lines 17-19) “In use, the expanded barrier member 22 is suspended internally at or near the surgical site. The barrier can be manipulated to underlie the surgical site, so that fluids or other materials which are released at the surgical site flow gently downhill into the expandable barrier by means of irrigation flow and/or gravity.” (Col. 29, lines 19-24) As stated above, the barrier is used at the surgical site to catch fluids and other materials that “flow gently downhill ... by means of irrigation flow and/or gravity.” There is no teaching or suggestion that these devices would be used in an environment where a flow rate of 3 mL/min or greater through the barrier membrane is needed and where this feature must be considered in choosing the pore size of the barrier membrane. Therefore, claims 1 and 14 are

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patentably distinct from the cited art. Claims 2-13 and 15-22 depend from claims 1 and 14, respectively, and therefore are patentably distinct for the same reasons cited above.

**FEES DUE TO FILE THIS AMENDMENT**

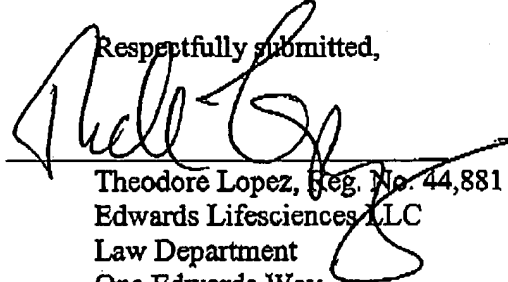
Prior to the pending Office Action, a fee was paid for the original 22 claims, with 3 of them being independent claims. The aforementioned claim additions and cancellations have not resulted in more than the original number of claims, and thus **no claim fees are believed to be due** to file this amendment.

**CONCLUSION**

For the above reasons, pending Claims 1-22 are in condition for allowance and allowance of the application is hereby solicited. If the Examiner has any questions or concerns, a telephone call to the undersigned at 949-250-6856 is welcomed and encouraged.

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Respectfully submitted,



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